

The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

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U.S PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL HENRI DECAUX,
STEPHANE JACQUES HENRI VAN HOUTTE
and
ALAIN GAUTHIER

Appeal No. 2005-1954
Application No. 09/937,583

ON BRIEF

Before KIMLIN, PAK and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-13.

Claim 1 is illustrative:

1. A fuel filter comprising a filter body having opposing filter body ends, the filter body defining an internal chamber within which a filter medium is to be located, the filter medium including an outer periphery and a filter member having a first

end secured to a support plate, and a second end secured to the filter body, wherein the support plate has an outer periphery which engages the inner surface of the filter body, said first and second ends being secured such that fuel can only flow from the outer periphery of the filter medium to an inner part of the filter medium by flowing through the filter medium, the filter body being of multi-part construction, the parts of the filter body being non-removably, sealingly secured to one another such that the parts of the filter body form an integral whole, the filter body being shaped to define an inlet port and an outlet port communicating with dirty and clean sides of the filter medium, respectively both the inlet and outlet ports being positioned at the same body end of the filter body.

The examiner relies upon the following references as evidence of obviousness:

Precision Mecanique Labinal (GB '203)	1,083,203	Sep. 13, 1967
Lewis et al. (Lewis)	3,813,034	May 28, 1974
Bosch et al. (Bosch)	4,683,055	Jul. 28, 1987
Brun	5,382,361	Jan. 17, 1995
Bradford et al. (Bradford)	5,685,278	Nov. 11, 1997
Girondi	5,904,845	May 18, 1999

Appellant's claimed invention is directed to a fuel filter comprising a filter body having a filter medium therein wherein the filter medium is secured to a support plate having an outer periphery which engages the inner surface of the filter body.

The appealed claims stand rejected under 35 U.S.C. § 103(a) as follows:

(a) claims 1, 2 and 4 over GB '203 in view of Girondi;

(b) claims 3, 11 and 12 over the stated combination of references further in view of Brun;

(c) claims 5 and 6 over the stated combination of references further in view of Bosch;

(d) claims 5-7 and 9 over the stated combination of references further in view of Bradford; and

(e) claims 7-9 over GB '203 in view of Girondi and Bosch or Bradford further in view of Lewis.

Appellants submit at page 3 of the Brief that "[c]laims 1-13 are grouped together to stand or fall together." Since appellants only argue the examiner's rejection of claim 1 over the combination of GB '203 and Girondi, all the appealed claims stand or fall together with claim 1. In essence, appellants rely upon the arguments with respect to the rejection of claim 1 for the patentability of dependent claims 2-13.

We have thoroughly reviewed each of appellants' arguments for patentability. However, we are in complete agreement with the examiner that the claimed subject matter would have been obvious to one of ordinary skill in the art within the meaning of § 103 in view of the applied prior art. Accordingly, we will sustain the examiner's rejections.

Appellants do not dispute the examiner's factual determination regarding the claimed features of the fuel filter that are disclosed by GB '203. As recognized by the examiner, GB '203 "fails to specify the support plate as having an outer periphery which engages the inner surface of the filter body" (page 4 of Answer, first paragraph). However, we concur with the examiner that Girondi would have suggested such a support plate for the filter medium which engages the inner surface of the filter body. While we agree with appellants that the figures of Girondi do not depict support plate 22 in actual contact with filter body 10, we concur with the examiner that one of ordinary skill in the art would have understood that the stated purpose of Girondi, to provide free passage of the heavy water between the first chamber 31 and the third chamber 33, would be best served by having plate 22 contact the inner surface of the filter body. Manifestly, the function of the apertures would be compromised if there was significant space between the plate 22 and the filter body. Also, we find that one of ordinary skill in the art would have found it obvious to have the plate 22 contact the inner surface of the body or to leave a space so small between the

plate and the body that it would serve, in effect, as another aperture.

Appellants, at page 8 of the Brief, reproduce a portion of the examiner's Advisory Action of March 9, 2004, wherein the examiner advances three reasons for the obviousness of having the support plate engage the inner surface of the filter body, including that "one skilled in the art would substantially eliminate any gap between the plate and body in order to ensure maximum flow through the apertures as taught by Girondi." However, while appellants respond to two of the examiner's reasons, we note that appellants fail to refute the examiner's rationale that it would have been obvious to eliminate any gap between the plate and the body in order to maximize flow through the apertures.

As a final point, we note that appellants base no argument upon objective evidence of nonobviousness, such as unexpected results, to rebut the inference of obviousness established by the applied prior art.

In conclusion, based on the foregoing, the examiner's decision rejecting the appealed claims is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv) (effective Sep. 13, 2004; 69 Fed. Reg. 49960 (Aug. 12, 2004); 1286 Off. Gaz. Pat. Office 21 (Sep. 7, 2004)).

AFFIRMED

Edward C. Kimlin

EDWARD C. KIMLIN)
Administrative Patent Judge)

Chung K. Pak)
CHUNG K. PAK)
Administrative Patent Judge)

) BOARD OF PATENT
APPEALS AND
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